

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KENNETH W. CLARK,

Plaintiff,

v.

STATE OF NEBRASKA, ROBERT
OTTE, Judge, MOORE, Judge, JEFF
CHEVRON, Court of appeal,
STEVEN BURNS, Judge, GALE
POKORAY, Judge, PUBLIC
DEFENDER OFFICE, YARDLEY,
Judge, DISTRICT AND COUNTY
ATTORNEY REGIONAL CENTER,
LANCASTER POLICE
DEPARTMENT COMMISSION,
TROY HAWKS, administration of
Nebraska, and DR. MOORE,
Lancaster county jail,

Defendants.

4:14CV3192

**MEMORANDUM
AND ORDER**

Plaintiff filed his Complaint (Filing No. [1](#)) on September 25, 2014. Plaintiff has been given leave to proceed in forma pauperis. The court now conducts an initial review of the Complaint to determine whether summary dismissal is appropriate under [28 U.S.C. § 1915\(e\)\(2\)](#).

I. SUMMARY OF COMPLAINT

Plaintiff, a nonprisoner, filed his Complaint against numerous state court judges, the State of Nebraska, the Public Defender's Office, the "district and county attorney regional center," and the "Lancaster police Department commission." His allegations are nonsensical. The following excerpt is taken from Plaintiff's Complaint:

Violation of conflict of interest holding inmates over statute limitation cruel punishment false imprisonment slander and perjury and cover up evidence and make me take medication that made me sick and you have to be able when you go to trial the bill of rights of the civil of the civil law is a fair trial out of all the amendment there are evidence . . . I got bit by a pitbull I was a victim and they still charge me and the owner of the dog case CR096479 violation conflict of interest cruel punishment imprisonment false imprisonment breaking and entering out a search warrant and slander . . .

(Filing No. [1 at CM/ECF pp. 2-3.](#))

Plaintiff alleged his claims arise under the Constitution, laws or treaties of the United States and that his civil rights have been violated. (*Id.* at CM/ECF p. 4.) For relief, Plaintiff asks the court to “press[] charges of harassment.” (*Id.* at CM/ECF p. 5.) He also seeks 10 million dollars for his pain, and for the court to order Defendants to pay his “dog bite bills” and his attorney. (*Id.* at CM/ECF p. 4.)

II. APPLICABLE LEGAL STANDARDS ON INITIAL REVIEW

The court is required to review in forma pauperis complaints to determine whether summary dismissal is appropriate. *See* [28 U.S.C. § 1915\(e\)\(2\)](#). The court must dismiss a complaint or any portion thereof that states a frivolous or malicious claim, that fails to state a claim upon which relief may be granted, or that seeks monetary relief from a defendant who is immune from such relief. [28 U.S.C. § 1915\(e\)\(2\)\(B\)](#).

Pro se plaintiffs must set forth enough factual allegations to “nudge[] their claims across the line from conceivable to plausible,” or “their complaint must be dismissed” for failing to state a claim upon which relief can be granted. [Bell Atlantic Corp. v. Twombly](#), 550 U.S. 544, 569-70 (2007); *see also* [Ashcroft v. Iqbal](#), 556 U.S. 662, 678 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that

allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”). Regardless of whether a plaintiff is represented or is appearing pro se, the plaintiff’s complaint must allege specific facts sufficient to state a claim. *See Martin v. Sargent*, 780 F.2d 1334, 1337 (8th Cir. 1985). However, a pro se plaintiff’s allegations must be construed liberally. *Burke v. North Dakota Dep’t of Corr. & Rehab.*, 294 F.3d 1043, 1043-44 (8th Cir. 2002) (citations omitted).

III. DISCUSSION OF CLAIMS

Federal Rule of Civil Procedure 8 requires that pleadings contain “short and plain statement[s]” of the grounds for the court’s jurisdiction and of the claim showing that the plaintiff is entitled to relief. Fed. R. Civ. P. 8(a). Even when liberally construed, Plaintiff’s Complaint raises no claims and makes no allegations against any Defendant. Thus, Plaintiff’s Complaint fails to state a claim upon which relief may be granted.

On the court’s own motion, Plaintiff shall have 30 days in which to file an amended complaint that sufficiently describes his claims against Defendants. Plaintiff should be mindful to explain what Defendants did to him, when Defendants did it, how Defendants’ actions harmed him, and what specific legal right Plaintiff believes Defendants violated. If Plaintiff fails to file an amended complaint in accordance with this Memorandum and Order, Plaintiff’s claims against Defendants will be dismissed without prejudice and without further notice.

IV. MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed a motion seeking the appointment of counsel. (Filing No. 6.) The court cannot routinely appoint counsel in civil cases. In *Davis v. Scott*, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained that “[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and

the court will benefit from the appointment of counsel” *Id.* (quotation and citation omitted). No such benefit is apparent here at this time. Thus, the request for the appointment of counsel is denied without prejudice to reassertion.

IT IS THEREFORE ORDERED that:

1. Plaintiff shall have 30 days from the date of this Memorandum and Order to file an amended Complaint that clearly states a claim upon which relief may be granted. If Plaintiff fails to file an amended complaint, Plaintiff’s claims against Defendants will be dismissed without further notice.

2. The Clerk of Court is directed to set a pro se case management deadline in this case using the following text: January 16, 2015: Check for amended complaint.

3. Plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal without further notice.

4. Plaintiff’s Motion to Appoint Counsel (Filing No. [6](#)) is denied without prejudice.

DATED this 15th day of December, 2014.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

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